

Order Denying Denying Plaintiff's Motion for Reconsideration; Dismissing Defendants  
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1 “Reconsideration is appropriate if the district court (1) is presented with newly discovered  
2 evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is  
3 an intervening change in controlling law.” *School Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255,  
4 1263 (9th Cir. 1993).

5 The Court has reviewed and considered Plaintiff’s motion for reconsideration and finds  
6 that he has not satisfied any of the factors necessary to warrant reconsideration. Accordingly,  
7 Plaintiff’s motion for reconsideration is DENIED.

8 Similarly, Plaintiff’s request for permission to file an interlocutory appeal is DENIED.  
9 *See* 28 U.S.C. § 1292(b); *In re Cement Antitrust Litigation*, 673 F.2d 1020, 1026 (9th Cir. 1982)  
10 (noting that to warrant an interlocutory appeal, Plaintiff must demonstrate that (1) there is a  
11 controlling question of law, (2) that there are substantial grounds for difference of opinion, and  
12 (3) that an immediate appeal may materially advance the ultimate termination of the litigation).

13 Plaintiff has also requested appointment of counsel. Plaintiff’s request is DENIED.  
14 Although Plaintiff states that he suffers from a neurological problem and head trauma, the Court  
15 finds that he has not demonstrated exceptional circumstances. *See Rand v. Rowland*, 113 F.3d  
16 1520, 1525 (9th Cir. 1997); *see also Lassiter v. Dep’t of Social Services*, 452 U.S. 18, 25 (1981)  
17 (there is no constitutional right to counsel in a civil case). The issues in this case are not  
18 particularly complex, and Plaintiff has thus far been able to adequately present his claims. This  
19 denial is without prejudice to the Court’s *sua sponte* appointment of counsel at a future date  
20 should the circumstances of this case warrant such appointment.

21 B. Dismissed Defendants

22 On July 5, 2011, the Court dismissed with leave to amend Plaintiff’s Eighth Amendment  
23 claim against Defendants Jimenez, Estep, Owens, Norton, Eagleton, and Santana because there  
24 was no reasonable inference, even liberally construing Plaintiff’s amended complaint, that these  
25 defendants proximately caused injuries to Plaintiff. The Court directed Plaintiff to file a second  
26 amended complaint within thirty days to correct the deficiencies if he could provide facts  
27 showing the basis for liability of each of the dismissed defendants. The Court warned Plaintiff  
28 that failure to file a second amended complaint within the thirty day deadline would result in

1 automatic dismissal of those defendants without leave to amend and without prejudice. More  
2 than thirty days have passed, and Plaintiff has not filed a second amended complaint. Thus,  
3 Defendants Jimenez, Estep, Owens, Norton, Eagleton, and Santana are DISMISSED from this  
4 action without prejudice.

5 This terminates docket number 48.

6 IT IS SO ORDERED.

7 DATED: 8/29/11

  
LUCY H. KOH  
United States District Judge